

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1685.01
COMPLAINT INVESTIGATOR: Steve Starbuck
DATE OF COMPLAINT: February 5, 2001
DATE OF REPORT: March 7, 2001
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: March 30, 2001

COMPLAINT ISSUES:

Whether the Richmond Community School Corporation violated:

511 IAC 7-30-3(w) with regard to the school's alleged failure to implement the final orders of the independent hearing officer in hearing #1166.00, specifically:

- a. causing the student to lose points in the levels program when the parent did not return the point sheets;
- b. failing to specify in the student's individualized education program (IEP) the criteria for using isolated instruction with regard to access to "specials"; and
- c. failing to permit the student to go to a scheduled special during the time the student is in isolated instruction but is not being disruptive.

511 IAC 7-27-7(a) with regard to the school's alleged failure to implement the student's IEP as written, specifically:

- a. failing to provide the student with an escort to, from, and on the bus; and
- b. failing to implement identified positive behavior supports.

511 IAC 7-27-9(b) with regard to the school's alleged failure to allow a student with a disability to participate in lunch and recess with nondisabled students, absent any documentation in the IEP to the contrary.

FINDINGS OF FACT:

1. The student is ten years old, attends the fourth grade, and has been determined eligible for special education due to an emotional disability.
2. The hearing officer's orders issued on September 11, 2000, denote the school may not cause the student to lose points in the levels program if the parent does not return the behavior point sheets to the school, as there is no provision in Article 7 that requires parents to participate in such activities. The assistant director acknowledges that during the student's participation in the levels program, the student's teacher deducted points on at least three occasions when the parent did not return signed point sheets to the school. Since that time, the assistant director states the teacher has reviewed each of the student's point sheets and added back the points that were previously deducted. According to the assistant director, the deduction of points did not affect what level the student attained in the levels program, nor did it have a negative effect on the student's grades.
3. A CCC meeting was convened on September 26, 2000, to comply with the requirements specified

in the hearing officer's orders dated September 11, 2000. The hearing officer ordered the following: "Criteria for using isolated instruction with regard to access to "specials" is to be specified in the IEP." At the CCC meeting guidelines for isolated instruction were developed for the student. The September 26th IEP addendum reflects the CCC determined the following: "Special" if [student's name] has received 3 warnings he may not attend the special." The parent attended the September 26th CCC meeting, and there is no indication that the parent objected to this condition.

4. The assistant director states the student has never been denied participation in "specials" due to his involvement in isolated instruction. At the student's school "specials" are identified as art, music, physical education, and library. The assistant director states the student attends class in the most restrictive setting offered by the school corporation. Due to this, the classroom teacher is required to record on the student's daily behavior point sheet any time the student does not participate in a class identified as a "special." Based on the daily behavior point sheets, the student has not been denied participation in any class identified as "specials." The parent did not identify any specific dates that the student missed attending "specials."
5. The student's IEP dated May 11, 2000, reflects the student shall receive an escort, as needed, within the building, to and from the bus, and on the bus. The assistant director states it is the school's policy for teachers and paraprofessionals to escort all primary grade students to and from the bus on a daily basis. The student's teacher of service is also the student's teacher of record. The student's teacher of record provided a signed written statement which states: "My Paraprofessionals and myself escort students daily from the room to the bus or parent. The Building Administrator is also on "duty" at this same time. In the mornings my Paraprofessionals as well as the Building Principal supervises students before the start of school. My Paraprofessionals and myself then escort my students to class." The director of transportation provided a signed written statement which indicates one paraprofessional was assigned to the student's bus to assist with transporting the students from the beginning of the school year until mid-November. Since mid-November the director of transportation reports the school has employed two paraprofessionals to assist with transportation on the bus the student rides to school.
6. The IEP dated May 11, 2000, reflects the school will utilize accelerated reading incentives, school incentives, levels incentives, goal sheet/rewards, and contracts to assist in reducing or eliminating inappropriate behaviors. The assistant director states these and other positive behavior supports are used on a daily basis with the student based on the behavior exhibited by the student in 45 minute increments. These observations of the student's behavior are then listed on the student's daily behavior point sheets. The data collected every 45 minutes is then utilized to determine whether the student receives the reinforcement for appropriate behavior. The assistant director provided the student's daily behavior point sheets for August 17, 2000, through January 30, 2001. The sheets reflect the student received positive behavior supports at the following frequencies per month:

August	70%
September	61%
October	46%
November	40%
December	94%
January	88%

The student may also receive a weekly reinforcer (positive behavior support) for exhibiting appropriate behavior for an entire week. The assistant director reports the student obtained this goal for the following school weeks:

October 23, through October 25, 2000;

December 4, through December 8, 2000;

December 18, through December 20, 2000;
January 3, through January 5, 2001;
January 8, through January 12, 2001; and
January 29, 2001, through February 2, 2001.

7. The IEP dated May 11, 2000, indicates the student will participate in non-academic and extracurricular activities with non-disabled students. The frequency of participation is not specified. According to the assistant director, school principal, and the student's teacher of record, each classroom teacher (both general education and special education) in the student's building determines when his or her class has recess. In a signed written statement the student's teacher of record reports there have been opportunities for the student to participate in recess with non-disabled students when other classrooms have taken recess at the same time as the student's class. In a signed written statement the student's teacher of record reports the student eats both breakfast and lunch with non-disabled peers.

CONCLUSIONS:

1. Finding of Fact #2 reflects the school caused the student to lose points in the levels program when the parent did not return the student's daily points sheets to the school. Therefore, a violation of 511 IAC 7-30-3(w) is found.
2. Finding of Fact #3 indicates the school specified in the student's IEP the criteria for using isolated instruction with regards to the student's access to "specials." Therefore, no violation of 511 IAC 7-30-3(w) is found.
3. Finding of Fact #4 reflects the school did not deny the student's participation in "specials." Therefore, no violation of 511 IAC 7-30-3(w) is found.
4. Finding of Fact #5 indicates the school provided the student with an escort to, from, and on the school bus. Therefore, no violation of 511 IAC 7-27-7(a) is found.
5. Finding of Fact #6 reflects the school implemented the positive behavior supports identified in the student's IEP. Therefore, no violation of 511 IAC 7-27-7(a) is found.
6. Finding of Fact #7 indicates the school allowed the student to participate in lunch and recess with non-disabled students. Therefore, no violation of 511 IAC 7-27-9(b) is found.

The Department of Education, Division of Special Education, requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Richmond Community School Corporation shall submit to the Division no later than March 30, 2001, an assurance statement that indicates the student will not lose points in the levels program when the parent does not return the student's daily points sheet to the school. The assurance statement shall be signed by the student's teacher of record and the local director of special education.